

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2008-0041

FOR

Anne Mack Johnson
1116 South Cloverdale Boulevard
Cloverdale, California

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter the Regional Water Board) finds that:

1. Anne Mack Johnson (hereinafter Discharger) owns a multiple unit housing complex located at 1116 South Cloverdale Boulevard, Cloverdale, California (APN 116-300-003) (hereinafter Site). The Site is located in an unincorporated area of Sonoma County, just outside the Cloverdale city boundaries. The Site is located adjacent to a storm drain system that flows approximately 500 feet to discharge directly into the south arm of Porterfield Creek (hereinafter creek), a tributary of the Russian River. The Russian River is less than one mile downstream from the location of the storm drain outfall.
2. The Site is served by an on-site septic tank-leachfield system. The discharge is not under any permit from the Regional Water Board. Regional Water Board staff reviewed files at Sonoma County Permit and Resource Management Department (PRMD), but was unable to obtain information regarding the system design, permitting or repair history. The PRMD files contain information identifying septic violations at this Site dating back to 1990.
3. On February 19, 2008, Regional Water Board staff was notified by City of Cloverdale staff regarding an alleged discharge of raw sewage from the Site directly to the storm drain. City of Cloverdale staff received the notification from a private citizen.
4. On February 20, 2008, Regional Water Board staff inspected the Site with the Discharger and representatives from PRMD and the City of Cloverdale. Regional Water Board staff observed a hose running from a septic tank sump to a storm drain. The hose ran under the Site fence; on the street side of the fence, the hose had been buried in the soil and the end of the hose was placed above a grate that is connected to the storm drain. A portable pump had been placed into the septic tank sump, and each time the pump cycled, the contents of the sump discharged to the storm drain. Regional Water Board staff observed the pump discharge for a period of approximately three to four minutes at a rate of approximately 5 to 10 gallons per minute. The water discharging from the hose had a slight milky white appearance and had a strong septic odor. Regional Water Board staff collected a sample of the discharge from the hose.

Regional Water Board staff observed the outfall of the storm drain to the creek and the creek during the time that the discharge was flowing through the storm drain. Regional Water Board staff collected water quality samples at the storm drain outfall and creek locations upstream and downstream of the storm drain outfall. Regional Water Board staff observed a strong septic odor and milky white plume in the area of the creek sampled and small pieces of white paper in the bottom of the creek that appeared to be toilet paper. The three samples were collected in sterilized bacteria bottles and the samples were submitted to Brelje and Race Analytical Laboratory to be analyzed for total and fecal coliform.

5. During the February 20, 2008 Site visit, a representative from PRMD unplugged the portable pump and removed it from the sump with the Discharger's permission. This action stopped the direct discharge of sewage from the septic tank to the storm drain, but did not eliminate the threat of further discharges from the apparently failing septic system, as further explained in Finding No. 11, below.
6. Regional Water Board staff was unable to determine who placed the portable pump in the sump or how long the discharge had been occurring. Representatives of the California Department of Fish and Game are conducting an investigation to determine these and other details related to the unauthorized discharge.
7. On February 21, 2008, PRMD issued a Notice of Violation to the Discharger requiring the Discharger to (1) immediately have the tank pumped by a licensed septic tank pumping company to stop the sewage discharge; (2) continue to have the tank pumped by a licensed septic hauler, as needed, to prevent any further discharge; and (3) submit an application to the City of Cloverdale for connection of the Site to the public sewer.
8. On February 21, 2008, the Sonoma County Department of Health Services, Environmental Health Division (SCHD), issued a Notice of Violation to the Discharger, requiring the Discharger to (1) cease and desist any improper discharge of sewage; (2) remove the sump pump and electrical cord from the area of septic tank; (3) notify the SCHD and any other appropriate agency regarding any future discharges; (4) ensure that the septic tanks do not overflow; and (5) take immediate steps to correct or repair any problems associated with the septic system, including connection to a community system.
9. On February 26, 2008, Regional Water Board staff returned to the Site and observed that the pump and electrical cord were still present at the Site. Regional Water Board staff did not observe any evidence of discharge from the septic tank. The storm drain was flowing at approximately 5 -10 gallons per minute with storm water runoff from rainstorms that occurred during the previous weekend. Regional Water Board staff sampled the water flowing out of the storm drain outfall, and the creek upstream and downstream of the storm drain outfall. Staff did not observe any septic odors in the storm drain or creek, or small pieces of paper in the creek bottom.

10. Sample results received on February 25, 2008 (for February 20, 2008 sampling event) and March 3, 2008 (for February 26, 2008 sampling event) are as follows:

Location	February 20, 2008 Results		February 26, 2008 Results	
	Total Coliform	Fecal Coliform	Total Coliform	Fecal Coliform
Septic Tank Discharge Hose	>160,000	>160,000	Not sampled - no discharge	Not sampled - no discharge
Porterfield Creek 5 ft. downstream of outfall	>16,000	>16,000	600	40
Porterfield Creek 10 feet upstream of outfall	500	70	17	40
Storm Drain Outfall	Not sampled	Not sampled	9000	2400

11. On March 4, 2008, SCHD staff met with Regional Water Board staff to discuss SCHD staff observations at the site. SCHD staff reported and provided photographs showing evidence of surfacing wastewater from the Site leachfield that was observed during a SCHD staff Site visit on March 3, 2008. SCHD staff further reported observations that a counter for the permanent pump in the septic tank had cycled 719 times over an 11 day period (between February 21, 2008 and March 3, 2008), indicating that sewage is being pumped to the leachfield.
12. The release of sewage described in Findings 4 and 9 through 11 above, constitutes a direct discharge of waste to waters of the State and poses an immediate threat to public health and may result in adverse impacts to the beneficial uses of Porterfield Creek and the Russian River. These impacts will continue unless and until the discharge is eliminated. Although the portable sump pump was removed from the sump, Regional Water Board staff believe that the discharge and threat of discharge has not been eliminated because the on-site system appears to be in a state of failure and has not been restored or reconstructed to a properly functioning state.
13. The Site poses a continuing threat to public health and may adversely affect the beneficial uses of Porterfield Creek and the Russian River due to the age and apparent failure of the on-site wastewater disposal system. The Discharger must eliminate all illegal discharges of sewage from the Site by (1) repairing the on-site system in a manner that restores its integrity, (2) connecting to the nearby sanitary sewer system, or (3) ceasing the generation of wastewater at the Site.
14. Section 13304 of the CWC states that “any person who has discharged waste into waters of the State in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has

caused or permitted, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the State and creates, or threatens to create a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”

15. The Water Quality Control Plan for the North Coast Region (Basin Plan) identifies present and potential beneficial uses of waters within its jurisdiction. The Regional Water Board is responsible for protecting the beneficial uses of receiving waters through regulation.
16. The Basin Plan designates the following existing and potential beneficial uses of the Middle Russian River Hydrologic Unit, Geyserville Hydrologic Subarea (which includes Porterfield Creek), as follows:
 - a. Municipal and domestic supply
 - b. Agricultural supply
 - c. Industrial service supply
 - d. Industrial process supply
 - e. Groundwater recharge
 - f. Freshwater replenishment
 - g. Navigation
 - h. Hydropower generation
 - i. Water contact recreation
 - j. Non-contact water recreation
 - k. Commercial and sport fishing
 - l. Warm freshwater habitat
 - m. Cold freshwater habitat
 - n. Wildlife habitat
 - o. Rare, threatened, or endangered species
 - p. Fish migration
 - q. Fish spawning
 - r. Shellfish harvesting
 - s. Aquaculture
17. As described in Findings 4 and 9 through 11 above, a discharge of waste into waters of the State has occurred and the threatened discharge of additional waste is ongoing. The discharge and continued threatened future discharge of waste from the Discharger’s septic system creates, or threatens to create, a condition of pollution and nuisance, as those terms are defined in Water Code section 13050. The discharge, and continued threatened discharge are pollution because the discharges may alter water quality to a degree that unreasonably affects the waters for beneficial uses, described in Finding No. 16, above. The discharges of waste are also a “nuisance” because they are injurious to health and offensive to the senses interfering with the comfortable enjoyment of life or property, affect the entire community downstream of where the storm drain

enters Porterfield Creek, and occurs as a result of the negligent treatment or disposal of waste. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated. As of the date of issuance of this Order, the Discharger has only partially and temporarily ceased the unpermitted discharge, as described in Findings No. 11 and 12 above, and permanent cleanup or abatement activities have not occurred.

18. The Basin Plan contains water quality objectives that are necessary for the reasonable protection of the beneficial uses of water. These include:
 - a. Bacteria: The bacteriological quality of waters of the North Coast Region shall not be degraded beyond natural background levels.
 - b. Color: Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.
 - c. Tastes and Odors: Waters shall not contain taste- or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, or that cause nuisance or adversely affect beneficial uses.
 - d. Floating Material: Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.
 - e. Settleable Material: Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.
 - f. Turbidity: Turbidity shall not be increased more than 20 percent above naturally occurring background levels.
19. The discharge of raw sewage into Porterfield Creek and the Russian River has threatened to violate these water quality objectives, unreasonably affecting beneficial uses.
20. CWC section 13267 also authorizes the Regional Water Board to investigate the quality of any waters of the State within its region and require persons to furnish technical or monitoring reports where the burden, including costs, of these reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. This Order contains a request for technical reports describing steps initiated and proposed to reduce the discharge of pollutants from the Site.

21. All of the technical reports required by this Order are necessary to ensure that the prior harm and future threat to water quality created by the discharge of waste described above are properly abated and controlled. More detailed information is available in the Regional Water Board's public file on this matter.
22. In light of the Discharger's unauthorized discharge of waste and staff observations that current conditions at the Site, as described in Findings 11 and 12, pose a continuing threat of discharge, the burden, including costs, of the reports required by this Order bear a reasonable relationship to the need for the reports and the benefits to be obtained therefrom.
23. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Water Code section 13304(c)(1).
24. Any person affected by this action of the Board may petition the State Water Board to review the action in accordance with CWC section 13320 and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If the Discharger chooses to appeal the Order, the Discharger is advised that the Discharger must comply with the Order while the appeal is being considered. The appeals process is enclosed.
25. The issuance of this cleanup and abatement order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with sections 15308 and 15321, title 14 of the California Code of Regulations.
26. Failure to comply with the terms of this Order may result in enforcement under the CWC. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to CWC section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to CWC section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day or ten dollars (\$10) per gallon of waste discharged.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to CWC sections 13267(b) and 13304, the Discharger shall provide the following information and perform the following cleanup and abatement actions:

1. Immediately abate the unpermitted release of wastewater and the threat of future discharges to surface waters from the failing septic system. Actions that may be required to cease the discharge of the unpermitted waste may include (1) complete removal of the illegal pump system; (2) prompt repair of the septic tank-leachfield system to fully restore its integrity and function and to ensure compliance with all applicable design standards; (3) connection to the City of Cloverdale sanitary sewer system; (4) reductions in wastewater generation; (5) transporting wastewater to an approved offsite treatment and disposal facility; and/or (6) elimination of wastewater generation.
2. Representatives of the Discharger shall visually inspect the septic tanks and leachfield on a weekly basis until such time that the threat of discharge has been fully abated, either by connection to the City of Cloverdale sanitary sewer system, by fully restoring the integrity and function of the septic-leachfield system or by ceasing the generation of wastewater at the Site. Reports of the inspections shall be submitted in accordance with Requirement No. 4, below. Any identified release of wastewater to the ground surface or to surface waters (including the storm drain system) shall immediately be reported to the Regional Water Board and Sonoma County PRMD.
3. By April 28, 2008, a report shall be submitted, for review and approval of the Regional Water Board Executive Officer, identifying a plan to abate the threat of discharges to surface waters. The report shall propose system upgrades and/or other control measures (e.g., connection to the sanitary sewer system, cessation of wastewater generation) necessary to permanently prevent future discharges to surface waters and describe the current condition and capacity of the existing wastewater system, as well as estimates of influent flow (wastewater, precipitation and infiltration/inflow). The report shall include a time schedule for prompt implementation of all necessary actions and system improvements proposed in the report.
4. Provide to the Regional Water Board monthly written status reports that contain the following information, at a minimum: (1) results of weekly visual inspections of the septic tank, leachfield, and storm drain ditch on the south side of the property; (2) documentation of any septic tank pumping for off-site disposal of septage, including a log of pump dates and volume of septage pumped, receipts and documentation of proper disposal of the septage; (3) updates on the progress of corrective measures; and (4) documentation of any release of wastewater from the septic tanks or leachfield to the ground or surface waters along with corrective measures taken. The first monthly written status report shall be submitted to the Regional Water Board Executive Officer on April 28, 2008.

A final written report shall be submitted to the Regional Water Board no later than one week following completion of all abatement activities referred to in Requirement #3 above.

5. Conduct all work under the direction of a California registered and/or licensed professional (e.g., civil engineer, professional geologist, or other professional approved by the Regional Water Board Executive Officer) experienced in the design, inspection and repair of on-site systems, and surface water investigation and remediation. All workplans and reports submitted to the Regional Water Board Executive Officer shall be signed and stamped by a registered and/or licensed professional.
6. The Discharger shall coordinate investigation and cleanup activities associated with surface waters, soils, and groundwater with Regional Water Board staff, Sonoma County Environmental Health Department staff, the Sonoma County PRMD, the California Department of Fish and Game, and any other regulatory agency involved and/or interested in the cleanup.
7. The Discharger shall take no action that causes or permits, or threatens to cause or permit, any waste to be discharged or deposited where it is, or probably will be discharged into waters of the State.
8. If, for any reason, the Discharger is unable to perform any activity or submit any documentation in compliance with the directives contained in this Order or submitted pursuant to this Order and approved by the Regional Water Board Executive Officer, the Discharger may request in writing an extension of time. The extension request must be submitted five days in advance of the due date, if possible, and shall include justification for the delay, including a description of the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent on the extension. A written extension may be granted for good cause, in which case the order will be revised accordingly.
9. This Order in no way limits the authority of this Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the Site consistent with State and federal law. This Order may be revised by the Executive Officer as additional information becomes available.

Ordered by _____

Luis G. Rivera
Assistant Executive Officer

March 21, 2008

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